

Calendar No. 276

108TH CONGRESS
1ST SESSION

S. 1245

To provide for homeland security grant coordination and simplification, and
for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 12, 2003

Ms. COLLINS (for herself, Mr. CARPER, Mr. ROCKEFELLER, Mr. VOINOVICH, Mr. FEINGOLD, Mr. SUNUNU, Mr. COLEMAN, Mr. PRYOR, Mr. ALLARD, Mr. AKAKA, Mr. HAGEL, Mr. BURNS, Mr. CHAFEE, Mr. ROBERTS, Mr. DORGAN, Mr. GRASSLEY, Mr. HARKIN, Mr. NELSON of Nebraska, Mr. DAYTON, Mr. SHELBY, Mr. CHAMBLISS, and Mr. JOHNSON) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

SEPTEMBER 5, 2003

Reported by Ms. COLLINS, with amendments

[Omit the part struck through and insert the part printed in *italic*]

A BILL

To provide for homeland security grant coordination and
simplification, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Homeland Security
3 Grant Enhancement Act of 2003”.

4 **SEC. 2. INTERAGENCY COMMITTEE TO COORDINATE AND**
5 **STREAMLINE HOMELAND SECURITY GRANT**
6 **PROGRAMS.**

7 (a) IN GENERAL.—The Homeland Security Act of
8 2002 (6 U.S.C. 101 et seq.) is amended by inserting after
9 section 801 the following:

10 **“SEC. 802. INTERAGENCY COMMITTEE TO COORDINATE**
11 **AND STREAMLINE HOMELAND SECURITY**
12 **GRANT PROGRAMS.**

13 “(a) ESTABLISHMENT.—There is established an
14 Interagency Committee to Coordinate and Streamline
15 Homeland Security Grant Programs (in this subtitle re-
16 ferred to as the ‘Interagency Committee’), which shall—

17 “(1) report all findings to the Information
18 Clearinghouse established under section 801~~(e)~~(d);

19 “(2) consult with State and local governments
20 and emergency response providers regarding their
21 homeland security needs and capabilities;

22 “(3) advise the Secretary on the development of
23 performance measures for homeland security grant
24 programs and the national strategy for homeland se-
25 curity;

1 “(4) not later than 60 days after the effective
2 date of the Homeland Security Grant Enhancement
3 Act of 2003—

4 “(A) compile a list of homeland security
5 assistance programs and their reporting re-
6 quirements, including—

7 “(i) those administered by the Office
8 for Domestic Preparedness, such as—

9 “(I) the State Homeland Security
10 Grant Program;

11 “(II) high threat urban area
12 grants;

13 “(III) critical infrastructure secu-
14 rity grants;

15 “(IV) research and development
16 grant programs;

17 “(V) training and technical as-
18 sistance grants; and

19 “(VI) other discretionary or and
20 assistance grant programs;

21 “(ii) Federal Emergency Management
22 Agency assistance programs, such as—

23 “(I) the Assistance to Fire-
24 fighters Grant Program;

25 “(II) Citizen Corps;

1 “(III) grants for emergency oper-
2 ations centers;

3 “(IV) interoperable communica-
4 tions grants;

5 “(V) Urban Search and Rescue
6 task forces; and

7 “(VI) other Federal Emergency
8 Management Agency assistance pro-
9 grams, except those grants intended
10 to reimburse States, localities, and
11 other applicants for costs resulting
12 from disasters or emergencies de-
13 clared under to the Disaster Relief
14 Act of 1974 (42 U.S.C. 5121 et seq.);

15 “(iii) Transportation Security Admin-
16 istration assistance programs, such as port
17 security grants;

18 “(iv) Department of Justice assist-
19 ance programs, such as—

20 “(I) the Local Law Enforcement
21 Block Grant;

22 “(II) the Byrne Memorial For-
23 mula Grant Program; and

24 “(III) the Community Oriented
25 Policing Services program;

1 “(v) Department of Health and
2 Human Services assistance programs, such
3 as—

4 “(I) the Public Health Bioter-
5 rorism Preparedness program, admin-
6 istered by the Centers for Disease
7 Control and Prevention; and

8 “(II) the Hospital Bioterrorism
9 Program, administered by the Health
10 Resources and Services Administra-
11 tion;

12 “(vi) related Federal assistance pro-
13 grams, such as—

14 “(I) the Hazardous Materials
15 Emergency Preparedness Program of
16 the Department of Transportation;
17 and

18 “(II) the water security assist-
19 ance programs administered by the
20 Environmental Protection Agency;
21 and

22 “(vii) any related grant or assistance
23 program, as determined by the Interagency
24 Committee; and

1 “(B) identify all homeland security plan-
2 ning requirements contained in homeland secu-
3 rity emergency preparedness, and public safety
4 programs administered by Federal agencies, in-
5 cluding—

6 “(i) terrorism preparedness plans,
7 such as those required by the Office for
8 Domestic Preparedness and other entities
9 within the Department;

10 “(ii) all hazards emergency prepared-
11 ness plans, such as those required in the
12 Emergency Management Performance
13 Grants administered by the Federal Emer-
14 gency Management Agency;

15 “(iii) bioterrorism response plans,
16 such as those required in bioterrorism pre-
17 paredness programs administered by the
18 Department of Health and Human Serv-
19 ices;

20 “(iv) hazardous materials response
21 plans, such as those required by the Envi-
22 ronmental Protection Agency and the De-
23 partment of Transportation;

24 “(v) critical infrastructure security
25 plans, such as those required by—

1 “(I) the Transportation Security
2 Administration;

3 “(II) the Environmental Protec-
4 tion Agency;

5 “(III) the Department of Trans-
6 portation; and

7 “(IV) the Nuclear Regulatory
8 Commission;

9 “(vi) law enforcement and public safe-
10 ty plans administered by the Department
11 of Justice, such as those required by—

12 “(I) the Local Law Enforcement
13 Block Grant;

14 “(II) the Byrne Memorial For-
15 mula Grant Program; and

16 “(III) the Community Oriented
17 Policing Services program; and

18 “(vii) any other planning requirement
19 identified by the Interagency Committee;

20 “(5) not later than 120 days after the effective
21 date of the Homeland Security Grant Enhancement
22 Act of 2003, review—

23 “(A) all application, reporting, and other
24 administrative requirements contained in grant
25 programs under paragraph (4)(A) and report

1 all redundant and duplicative requirements to
2 the appropriate committees of Congress and the
3 agencies represented in the Interagency Com-
4 mittee; and

5 “(B) all homeland security planning and
6 other administrative requirements under para-
7 graph (4)(B) and report all redundant and du-
8 plicative requirements to the appropriate com-
9 mittees of Congress and the agencies rep-
10 resented in the Interagency committee;

11 “(6) not later than 150 days after the effective
12 date of the Homeland Security Grant Enhancement
13 Act of 2003, provide recommendations to—

14 “(A) the agencies with the requirements
15 identified under paragraph (4)(A) to streamline
16 and standardize application, reporting, and ad-
17 ministrative requirements to eliminate duplica-
18 tion and promote coordination of homeland se-
19 curity planning grants; and

20 “(B) the agencies involved with the grant
21 programs under paragraph (4)(B) to streamline
22 and standardize planning requirements to elimi-
23 nate duplication and promote coordination; and

24 “(7) not later than 250 days after the effective
25 date of the Homeland Security Grant Enhancement

1 Act of 2003, issue a report to Congress regarding its
2 actions under this subsection.

3 “(b) MEMBERSHIP.—The Interagency Committee
4 shall be composed of a representative of—

5 “(1) the Department of Homeland Security;

6 “(2) the Department of Health and Human
7 Services;

8 “(3) the Department of Transportation;

9 “(4) the Department of Justice;

10 “(5) the Environmental Protection Agency; and

11 “(6) any other department or agency deter-
12 mined to be necessary by the President.

13 “(c) ADMINISTRATION.—The Department shall pro-
14 vide administrative support to the Interagency Committee,
15 which shall include—

16 “(1) scheduling meetings;

17 “(2) preparing agenda;

18 “(3) maintaining minutes and records; and

19 “(4) producing reports.

20 “(d) CHAIRPERSON.—The Secretary shall designate
21 a chairperson of the Interagency Committee.

22 “(e) MEETINGS.—The Interagency Committee shall
23 meet—

24 “(1) at the call of the Secretary; or

1 “(2) not less frequently than once every 1
2 month.”.

3 (b) TECHNICAL AND CONFORMING AMENDMENT.—
4 The table of contents for the Homeland Security Act of
5 2002 (6 U.S.C. 101 et seq.) is amended by inserting after
6 the item relating to section 801 the following:

“Sec. 802. Interagency Committee To Coordinate and Streamline Homeland
Security Grant Programs.”.

7 **SEC. 3. STREAMLINING FEDERAL HOMELAND SECURITY**
8 **GRANTS.**

9 (a) DIRECTOR OF STATE AND LOCAL GOVERNMENT
10 COORDINATION.—Section 801 of the Homeland Security
11 Act of 2002 (6 U.S.C. 101 et seq.) is amended—

12 (1) by amending subsection (a) to read as fol-
13 lows:

14 “(a) ESTABLISHMENT.—

15 “(1) IN GENERAL.—There is established within
16 the Office of the Secretary the Office for State and
17 Local Government Coordination, which shall oversee
18 and coordinate departmental programs for, and rela-
19 tionships with, State and local governments.

20 “(2) DIRECTOR.—The Office established under
21 paragraph (1) shall be headed by the Director of
22 State and Local Government Coordination, who shall
23 be appointed by the President, by and with the ad-
24 vice and consent of the Senate.”;

1 (2) in subsection (b)—

2 (A) in paragraph (3), by striking “and” at
3 the end;

4 (B) in paragraph (4), by striking the pe-
5 riod and inserting “; and”; and

6 (C) by adding at the end the following:

7 “(5) administering the firefighter assistance
8 grant program established under section 33 of the
9 Federal Fire Prevention and Control Act of 1974
10 (15 U.S.C. 2229) by—

11 “(A) coordinating grant making activities
12 with—

13 “(i) emergency preparedness and re-
14 sponse personnel;

15 “(ii) grants made under section 4 of
16 the Homeland Security Grant Enhance-
17 ment Act of 2003; and

18 “(iii) grants made under other Fed-
19 eral programs to enhance emergency pre-
20 paredness.

21 “(B) awarding grants on a competitive
22 basis directly to fire departments of a State, in
23 consultation with the chief executive of the
24 State, for the purpose of protecting the health

1 and safety of the public and firefighting per-
 2 sonnel against fire and fire-related hazards; and

3 “(C) complying with the administrative re-
 4 quirements set forth in section 33 of the Fed-
 5 eral Fire Prevention and Control Act of 1974
 6 (15 U.S.C. 2229) and retaining the administra-
 7 tive requirements set forth under part 152 of
 8 title 44, Code of Federal Regulations; and

9 “(D) ensuring that all equipment pur-
 10 chased with grant funds for which there are vol-
 11 untary consensus standards meet such stand-
 12 ards.”; and

13 (3) by adding at the end the following:

14 “(c) REFERENCES.—All references to “~~Director~~” ‘*Di-*
 15 *rector*’ in section 33 of the Federal Fire Prevention and
 16 Control Act of 1974 (15 U.S.C. 2229) shall be deemed
 17 to refer to the Director for State and Local Government
 18 Coordination.”.

19 (b) OFFICE FOR DOMESTIC PREPAREDNESS.—The
 20 Homeland Security Act of 2002 (6 U.S.C. 101 et seq.)
 21 is amended—

22 (1) by redesignating section 430 as section 803
 23 and transferring that section to the end of subtitle
 24 A of title VIII, as amended by section 2; *and*

(2) in section 803, as redesignated by paragraph (1)—

(A) in subsection (a), by striking “the Directorate of Border and Transportation Security” and inserting “the Office for State and Local Government Coordination”;

(B) in subsection (b), by striking “who shall be appointed by the President” and all that follows and inserting “who shall report directly to the Director of State and Local Government Coordination.”; ~~and~~

(C) in subsection (c)—

(i) in paragraph (7)—

(I) by striking “other” and inserting “the”;

(II) by striking “consistent with the mission and functions of the Directorate”; and

(III) by striking “and” at the end; and

(ii) in paragraph (8)—

(I) by inserting “carrying out” before “those elements”;

(II) by striking the period at the end and inserting “; and” ; and

1 (iii) by adding at the end the fol-
 2 lowing:

3 “(9) managing the Homeland Security Informa-
 4 tion Clearinghouse established under section
 5 801~~(e)~~(d).” ; and

6 (D) by redesignating subsection (d) as sub-
 7 section (e), and inserting after subsection (c) the
 8 following:

9 “(d) *TRAINING AND EXERCISES OFFICE WITHIN THE*
 10 *OFFICE FOR DOMESTIC PREPAREDNESS.*—

11 “(1) *IN GENERAL.*—*The Secretary shall create*
 12 *within the Office for Domestic Preparedness an inter-*
 13 *nal office that shall be the proponent for all national*
 14 *domestic preparedness, training, education, and exer-*
 15 *cises within the Office for State and Local Govern-*
 16 *ment Coordination.*

17 “(2) *OFFICE HEAD.*—*The Secretary shall select*
 18 *an individual with recognized expertise in first-re-*
 19 *sponder training and exercises to head the office, and*
 20 *such person shall report directly to the Director of the*
 21 *Office of Domestic Preparedness.*”.

22 (c) ~~TECHNICAL AND CONFORMING AMENDMENT CON-~~
 23 ~~FORMING AMENDMENT.~~—The table of contents for the
 24 Homeland Security Act of 2002 (6 U.S.C. 101 et seq.)
 25 is amended—

1 (A) by striking the item relating to section
2 430; and

3 (B) by inserting after the item relating to
4 section 802, as added by this Act, the following:

“Sec. 803. Office for Domestic Preparedness.”.

5 (d) ESTABLISHMENT OF HOMELAND SECURITY IN-
6 FORMATION CLEARINGHOUSE.—Section 801 of the Home-
7 land Security Act of 2002 (6 U.S.C. 101 et seq.) ~~is amend-~~
8 ~~ed~~ *(as amended by subsection (a) of this section)* is further
9 amended by adding at the end the following:

10 “~~(e)~~ (d) HOMELAND SECURITY INFORMATION
11 CLEARINGHOUSE.—

12 “(1) ESTABLISHMENT.—There is established
13 within the Office for State and Local Government
14 Coordination a Homeland Security Information
15 Clearinghouse (referred to in this section as the
16 ‘Clearinghouse’), which shall assist States, local gov-
17 ernments, and first responders in accordance with
18 paragraphs (2) through (5).

19 “(2) HOMELAND SECURITY GRANT INFORMA-
20 TION.—The Clearinghouse shall create and maintain
21 a web site, a toll-free number, and a single publica-
22 tion containing information regarding the homeland
23 security grant programs identified under section
24 802(a)(4)(A).

1 “(3) TECHNICAL ASSISTANCE.—The Clearing-
2 house, in consultation with the Interagency Com-
3 mittee established under section 802, shall—

4 “(A) coordinate technical assistance pro-
5 vided by any Federal agency to States and local
6 governments to conduct threat analyses and
7 vulnerability assessments; and

8 “(B) establish templates for conducting
9 threat analyses and vulnerability assessments.

10 “(4) BEST PRACTICES.—The Clearinghouse
11 shall work with States, local governments, emer-
12 gency response providers and the National Domestic
13 Preparedness Consortium, and private organizations
14 to gather, validate, and disseminate information re-
15 garding successful State and local homeland security
16 programs and practices.

17 “(5) USE OF FEDERAL FUNDS.—The Clearing-
18 house shall compile information regarding equip-
19 ment, training, and other services purchased with
20 Federal funds provided under the homeland security
21 grant programs identified under section
22 802(a)(4)(A), and make such information, and infor-
23 mation regarding voluntary standards of training,
24 equipment, and exercises, available to States, local
25 governments, and first responders.

1 “(6) OTHER INFORMATION.—The Clearing-
 2 house shall provide States, local governments, and
 3 first responders with any other information that the
 4 Secretary determines necessary.”.

5 **SEC. 4. HOMELAND SECURITY GRANT PROGRAM.**

6 (a) DEFINITION.—In this section, the term “State”
 7 has the meaning given that term in section 2 of the Home-
 8 land Security Act of 2002 (6 U.S.C. 101 et seq.).

9 (b) GRANTS AUTHORIZED.—The Secretary of Home-
 10 land Security (in this section referred to as the “Sec-
 11 retary”) may award grants to States to enhance homeland
 12 security.

13 (c) USE OF FUNDS.—

14 (1) IN GENERAL.—Grants awarded under sub-
 15 section (b)—

16 (A) shall be used to address homeland se-
 17 curity matters related to acts of terrorism or
 18 major disasters and related capacity building;
 19 and

20 (B) shall not be used to supplant ongoing
 21 first responder expenses or general protective
 22 measures.

23 (2) ALLOWABLE USES.—Grants awarded under
 24 subsection (b) may be used to—

1 (A) develop State plans or risk assess-
2 ments (including the development of the home-
3 land security plan) to respond to terrorist at-
4 tacks and strengthen all hazards emergency
5 planning in coordination with the requirements
6 under section 201 of the Disaster Relief Act of
7 1974 (42 U.S.C 5131), and community-wide
8 plans for responding to terrorist or all hazards
9 emergency events that are coordinated with the
10 capacities of applicable Federal, State, and local
11 governments, first responders, and State and
12 local government health agencies;

13 ~~(B)~~ build and sustain comprehensive all-
14 hazards emergency management capacity, such
15 as planning, training, exercises, personnel, oper-
16 ational activities, equipment, early warning,
17 public information and education, mutual aid,
18 and other preparedness, response, and recovery
19 activities;

20 ~~(C)~~ (B) develop State, regional, or local
21 mutual aid agreements;

22 ~~(D)~~ (C) purchase or upgrade equipment
23 based on State and local needs as identified
24 under a State homeland security plan;

1 ~~(E)~~ (D) conduct exercises to strengthen
 2 emergency preparedness of State and local first
 3 responders including law enforcement, fire
 4 fighting personnel, and emergency medical serv-
 5 ice workers, and other emergency responders
 6 identified in a State homeland security plan;

7 ~~(F)~~ pay for overtime expenses relating to
 8 training activities consistent with the goals out-
 9 lined in a State homeland security plan; and

10 (E) pay for overtime expenses relating to—

11 (i) training activities consistent with
 12 the goals outlined in a State homeland secu-
 13 rity plan; and

14 (ii) as determined by the Secretary, ac-
 15 tivities relating to an increase in the threat
 16 level under the Homeland Security Advisory
 17 System; and

18 ~~(G)~~ (F) promote training regarding home-
 19 land security preparedness including—

20 (i) emergency preparedness responses
 21 to a use or threatened use of a weapon of
 22 mass destruction; and

23 (ii) training in the use of equipment,
 24 including detection, monitoring, and decon-

tamination equipment, and personal protective gear.

(3) PROHIBITED USES.—

(A) CONSTRUCTION.—Grants awarded under subsection (b) may not be used to construct buildings or other physical facilities, except those described in section 611 of the Disaster Relief Act of 1974 (42 U.S.C. 5196), or to acquire land.

~~(B) COMPENSATION.—Not more than 5 percent of grant funds provided under this section may be expended for the compensation of emergency planning personnel authorized under paragraph (2)(B). The amount of any such grant expended for the compensation of personnel shall not exceed the amount of State or local government funds made available to increase such compensation.~~

~~(C) OVERTIME EXPENSES.—Not more than 5 percent of grant funds provided under this section may be used for overtime expenses for training carried out under paragraph (2)(F).~~

(B) OVERTIME EXPENSES.—

1 (i) *IN GENERAL.*—*Not more than 5*
 2 *percent of grant funds provided under this*
 3 *section may be used for overtime expenses*
 4 *for training carried out under paragraph*
 5 *(2)(F).*

6 (ii) *WAIVER.*—*The Secretary may*
 7 *waive the limitation under clause (i) if the*
 8 *Secretary determines that such funds are*
 9 *necessary to provide effective training or*
 10 *adequate protection in the event of an in-*
 11 *crease in the threat level under the Home-*
 12 *land Security Advisory System.*

13 ~~(D)~~ (C) *COST SHARING.*—Grant funds pro-
 14 vided under this section shall not be used for
 15 any State or local government cost sharing con-
 16 tribution request under this section.

17 (d) *APPLICATION.*—

18 (1) *SUBMISSION.*—A State may apply for a
 19 grant under this section by submitting to the Sec-
 20 retary an application at such time, and in such man-
 21 ner, and containing such information the Secretary
 22 may reasonably require.

23 (2) *REVISIONS.*—A State may revise a home-
 24 land security plan certified under subsection (e) at
 25 the time an application is submitted under para-

1 graph (1) after receiving approval from the Sec-
2 retary.

3 (3) APPROVAL.—The Secretary shall not award
4 a grant under this section unless the application
5 submitted by the State includes a homeland security
6 plan meeting the requirements of subsection (e).

7 (4) RELEASE OF FUNDS.—The Secretary shall
8 release grant funds to States with approved plans
9 after the approval of an application submitted under
10 this subsection.

11 (e) HOMELAND SECURITY PLAN.—

12 (1) IN GENERAL.—An application submitted
13 under subsection (d) shall include a certification that
14 the State has prepared a 3-year State homeland se-
15 curity plan (referred to in this subsection as the
16 “plan”) to respond to terrorist attacks and strength-
17 en all hazards emergency planning that has been ap-
18 proved by the Secretary.

19 (2) CONTENTS.—The plan shall contain meas-
20 urable goals and objectives that—

21 (A) establish a 3-year strategy to set prior-
22 ities for the allocation of funding to political
23 subdivisions based on the risk, capabilities, and
24 needs described under paragraph (3)(C);

1 (B) provide for interoperable communica-
2 tions;

3 (C) provide for local coordination of re-
4 sponse and recovery efforts, including proce-
5 dures for effective incident command in con-
6 formance with the National Incident Manage-
7 ment System;

8 (D) ensure that first responders and other
9 emergency personnel have adequate training
10 and appropriate equipment for the threats that
11 may occur;

12 (E) provide for improved coordination and
13 collaboration among police, fire, and public
14 health authorities at State and local levels;

15 (F) coordinate emergency response and
16 public health plans;

17 (G) mitigate risks to critical infrastructure
18 that may be vulnerable to terrorist attacks;

19 (H) promote regional coordination among
20 contiguous local governments;

21 (I) identify necessary protective measures
22 by private owners of critical infrastructure;

23 (J) promote orderly evacuation procedures
24 when necessary;

1 (K) ensure support from the public health
 2 community for measures needed to prevent, de-
 3 tect and treat bioterrorism, and radiological and
 4 chemical incidents;

5 (L) increase the number of local jurisdic-
 6 tions participating in local and statewide exer-
 7 cises;

8 (M) meet preparedness goals as deter-
 9 mined by the Secretary; and

10 (N) include a report from the relevant ad-
 11 visory committee established under paragraph
 12 (3)(D) that documents the areas of support,
 13 disagreement, or recommended changes to the
 14 plan before its submission to the Secretary.

15 (3) DEVELOPMENT PROCESS.—

16 (A) IN GENERAL.—In preparing the plan
 17 under this section, a State shall—

18 (i) provide for the consideration of all
 19 homeland security needs;

20 (ii) follow a process that is continuing,
 21 inclusive, cooperative, and comprehensive,
 22 as appropriate; and

23 (iii) coordinate the development of the
 24 plan with the homeland security planning
 25 activities of local governments.

1 (B) COORDINATION WITH LOCAL PLAN-
 2 NING ACTIVITIES.—The coordination under sub-
 3 paragraph (A)(iii) shall ~~allow~~ *include* input
 4 from local stakeholders, including—

5 (i) local officials, *including representa-*
 6 *tives of rural, high-population, and high-*
 7 *threat jurisdictions;*

8 (ii) first responders and emergency re-
 9 sponse providers; and

10 (iii) private sector companies, such as
 11 railroads and chemical manufacturers.

12 (C) SCOPE OF PLANNING.—Each State
 13 preparing a plan under this section shall, in
 14 conjunction with the local stakeholders under
 15 subparagraph (B), address all the information
 16 requested by the Secretary, and complete a
 17 comprehensive assessment of—

18 (i) risk, including a—

19 (I) vulnerability assessment;

20 (II) threat assessment; and

21 (III) public health assessment, in
 22 coordination with the State bioter-
 23 rorism plan; and

24 (ii) capabilities and needs, including—

1 (I) an evaluation of current pre-
 2 paredness, mitigation, and response
 3 capabilities based on such assessment
 4 mechanisms as shall be determined by
 5 the Secretary;

6 (II) an evaluation of capabilities
 7 needed to address the risks described
 8 under clause (i); and

9 (III) an assessment of the short-
 10 fall between the capabilities described
 11 under subclause (I) and the required
 12 capabilities described under subclause
 13 (II).

14 (D) ADVISORY COMMITTEE.—

15 (i) IN GENERAL.—Each State pre-
 16 paring a plan under this section shall es-
 17 tablish an advisory committee to receive
 18 comments from the public and the local
 19 stakeholders identified under subparagraph
 20 (B).

21 (ii) COMPOSITION.—The Advisory
 22 Committee shall include local officials, local
 23 first responders, and emergency response
 24 providers that are representative of the
 25 counties, cities, and towns within the

1 State, *and which shall include representa-*
 2 *tives of rural, high-population, and high-*
 3 *threat jurisdictions.*

4 (4) PLAN APPROVAL.—The Secretary shall ap-
 5 prove a plan upon finding that the plan meets the
 6 requirements of—

7 (A) paragraphs (2) and (3);

8 (B) the interim performance measurements
 9 under subsection (h)(1), or the national per-
 10 formance standards under subsection (h)(2);
 11 and

12 (C) any other criteria the Secretary deter-
 13 mines necessary to the approval of a State plan.

14 (5) REVIEW OF ADVISORY COMMITTEE RE-
 15 PORT.—The Secretary shall review the recommenda-
 16 tions of the advisory committee report incorporated
 17 into a plan under subsection (e)(2)(N), *including*
 18 *any dissenting views submitted by advisory com-*
 19 *mittee members*, to ensure cooperation and coordina-
 20 tion between local and State jurisdictions in plan-
 21 ning the use of grant funds under this section.

22 (f) DISCRETIONARY GRANT PROGRAM.—

23 (1) IN GENERAL.—The Secretary shall use 10
 24 percent of the funds appropriated under this section
 25 to make discretionary grants to local governments

1 that the Secretary considers to be high threat areas
2 based upon the criteria under paragraph (2).

3 (2) HIGH THREAT AREA CRITERIA.—The Sec-
4 retary shall ensure that an award of a grant under
5 this subsection is based upon the consideration of
6 the local government's—

7 (A) ~~population and population density;~~

8 (B) ~~location, risk, or vulnerability of crit-~~
9 ~~ical infrastructure or key national assets; and~~

10 (C) ~~any other factors determined by the~~
11 ~~Secretary.~~

12 *this subsection is given to localities that—*

13 (A) *have a large population and high popu-*
14 *lation density;*

15 (B) *have a high degree of threat, risk, and*
16 *vulnerability related to critical infrastructure or*
17 *key national assets identified in the State home-*
18 *land security plan;*

19 (C) *have an international border with Can-*
20 *ada or Mexico, or coastline bordering inter-*
21 *national waters of Canada, Mexico, the Atlantic*
22 *Ocean, or the Pacific Ocean; or*

23 (D) *are subject to other threat factors speci-*
24 *fied in writing by the Secretary.*

1 (3) CONSISTENCY.—Any grant awarded under
 2 this subsection shall be used to supplement and sup-
 3 port, in a consistent and coordinated manner with,
 4 those activities and objectives described under sub-
 5 section (b) or a State homeland security plan.

6 (4) COORDINATION.—The Secretary shall en-
 7 sure that any grants made under this subsection en-
 8 courage multiple contiguous units of local govern-
 9 ment and mutual aid partners to coordinate any
 10 homeland security activities.

11 ~~(g) FUNDING—~~

12 (g) *FUNDING*.—

13 (1) IN GENERAL.—~~The Secretary~~ *After the dis-*
 14 *tribution of funds for grants under subsection (f), the*
 15 *Secretary* shall make awards of grant funds in ac-
 16 cordance with paragraphs (2) through (7).

17 (2) MAINTAINING A BASELINE LEVEL OF SECU-
 18 RITY.—Each State whose application is approved
 19 under subsection ~~(e)~~ (d), including the District of
 20 Columbia and the Commonwealth of Puerto Rico
 21 shall receive .75 percent of the total amount appro-
 22 priated in any fiscal year. The United States Terri-
 23 tories (including American Samoa, the Common-
 24 wealth of Northern Mariana Islands, Guam, and the
 25 United States Virgin Islands) shall receive .25 per-

1 cent of the total amount appropriated in any fiscal
 2 year.

3 (3) ~~ASSESSMENT.~~— *DISTRIBUTION OF ADDI-*
 4 *TIONAL FUNDS.*—The Secretary shall distribute any
 5 remaining available grant funds, after distribution of
 6 funds for grants under subsections ~~(d)~~ and ~~(f)~~,
 7 based on—

8 (A) ~~population and population density.~~

9 (B) ~~threat, risk, and vulnerability of crit-~~
 10 ~~ical infrastructure or key national assets identi-~~
 11 ~~fied in the State homeland security plan; and~~

12 (C) ~~any other factors identified by the Sec-~~
 13 ~~retary.~~

14 (f) and (g)(2), based on—

15 (A) *population, including tourist and mili-*
 16 *tary populations, and population density;*

17 (B) *threat, risk, and vulnerability related to*
 18 *critical infrastructure, key national assets, or*
 19 *other factors identified in a State homeland secu-*
 20 *rity plan;*

21 (C) *an international border with Canada or*
 22 *Mexico, or coastline bordering international wa-*
 23 *ters of Canada, Mexico, the Atlantic Ocean or*
 24 *the Pacific Ocean; or*

1 (D) *other factors specified in writing by the*
 2 *Secretary.*

3 (4) FUNDING FOR LOCAL ENTITIES AND FIRST
 4 RESPONDERS.—The Secretary shall require grant re-
 5 cipients to provide local governments, ~~first respond-~~
 6 ~~ers, and other local groups,~~ *and first responders,* con-
 7 sistent with the applicable State homeland security
 8 plan, with not less than 80 percent of the grant
 9 funds, the resources purchased with such grant
 10 funds, or a combination thereof, not later than ~~60~~
 11 45 days after receiving grant funds under this sec-
 12 tion.

13 (5) STATE AND LOCAL MATCH.—

14 (A) IN GENERAL.—The Secretary shall re-
 15 quire a recipient of a grant under this section
 16 to make available non-Federal contributions in
 17 an amount equal to 25 percent of the Federal
 18 funds provided under the grant.

19 (B) EFFECTIVE DATE.—The matching re-
 20 quirement under subparagraph (A) shall take
 21 effect 2 years after the date of enactment of
 22 this Act.

23 (C) *ECONOMIC DISTRESS.*—*The matching*
 24 *requirement under paragraph (A) shall not*

1 *apply to any grant recipient that is deemed eco-*
 2 *nomically distressed.*

3 (6) REPORT ON HOMELAND SECURITY SPEND-
 4 ING.—Each recipient of a grant under this section
 5 shall annually submit a report to the Secretary that
 6 contains—

7 (A) an accounting of the amount of State
 8 and local funds spent on homeland security ac-
 9 tivities under the applicable State homeland se-
 10 curity plan; and

11 (B) information regarding the use of grant
 12 funds by units of local government as required
 13 by the Secretary.

14 (7) SUPPLEMENT NOT SUPPLANT.—Amounts
 15 appropriated for grants under this section shall be
 16 used to supplement and not supplant other State
 17 and local public funds obligated for the purposes
 18 provided under this Act.

19 (h) ACCOUNTABILITY.—

20 (1) INTERIM PERFORMANCE MEASURES.—

21 (A) IN GENERAL.—Before establishing per-
 22 formance standards under paragraph (2), the
 23 Secretary shall assist each State in establishing
 24 interim performance measures based upon—

1 (i) the goals and objectives under sub-
2 section (e)(2); and

3 (ii) any other factors determined by
4 the Secretary.

5 (B) ANNUAL REPORT.—Before establishing
6 performance measures under paragraph (2),
7 each State with an approved State plan shall
8 submit to the Secretary a report detailing the
9 progress the State has made in meeting the in-
10 terim performance measures established under
11 subparagraph (A).

12 (2) NATIONAL PERFORMANCE STANDARDS.—

13 (A) IN GENERAL.—Not later than 1 year
14 after the date of enactment of this Act, the Sec-
15 retary shall set national performance standards
16 based in part on the goals and objectives under
17 subsection (e)(2) and any other factors the Sec-
18 retary determines relevant.

19 (B) COMPLIANCE.—The Secretary shall
20 ensure that State plans are in conformance
21 with the standards set under subparagraph (A).

22 (C) ANNUAL REPORT.—After the establish-
23 ment of performance standards under subpara-
24 graph (A), each State with an approved State
25 homeland security plan shall submit to the Sec-

1 retary a report on the progress the State has
2 made in meeting such standards.

3 (3) GENERAL ACCOUNTING OFFICE ACCESS TO
4 INFORMATION.—Each recipient of a grant under this
5 section and the Department of Homeland Security
6 shall provide the General Accounting Office with full
7 access to information regarding the activities carried
8 out under this section.

9 (4) AUDIT.—Grant recipients that expend
10 \$300,000 or more in Federal funds during any fiscal
11 year shall submit to the Secretary an organization
12 wide financial and compliance audit report in con-
13 formance with the requirements of chapter 75 of
14 title 31, United States Code.

15 (i) REMEDIES FOR ~~NON-COMPLIANCE.~~—*NON-COM-*
16 *PLIANCE.*—

17 (1) IN GENERAL.—If the Secretary finds, after
18 reasonable notice and an opportunity for a hearing,
19 that a recipient of a grant under this section has
20 failed to substantially comply with any provision of
21 this section, the Secretary shall—

22 (A) terminate any payment of grant funds
23 to be made to the recipient under this section;

24 (B) reduce the amount of payment of
25 grant funds to the recipient by an amount equal

1 to the amount of grants funds that were not
 2 expended by the recipient in accordance with
 3 this section; or

4 (C) limit the use of grant funds received
 5 under this section to programs, projects, or ac-
 6 tivities not affected by the failure to comply.

7 (2) DURATION OF PENALTY.—The Secretary
 8 shall apply an appropriate penalty under paragraph
 9 (1) until such time as the Secretary determines that
 10 the grant recipient is in full compliance with this
 11 section.

12 (3) *DIRECT FUNDING.*—*If a State fails to sub-*
 13 *stantially comply with any provision of this section,*
 14 *including failing to provide local governments with*
 15 *grant funds or resources purchased with grant funds*
 16 *in a timely fashion, a local government entitled to re-*
 17 *ceive such grant funds or resources may petition the*
 18 *Secretary, at such time and in such manner as deter-*
 19 *mined by the Secretary, to request that grant funds*
 20 *or resources be provided directly to the local govern-*
 21 *ment.*

22 (j) REPORTS TO CONGRESS.—The Secretary shall
 23 submit an annual report to Congress that provides—

24 (1) findings relating to the performance stand-
 25 ards established under subsection (h);

1 (2) the status of preparedness goals and objec-
2 tives;

3 (3) an evaluation of how States and local gov-
4 ernments are meeting preparedness goals and objec-
5 tives;

6 (4) the total amount of resources provided to
7 the States;

8 (5) the total amount of resources provided to
9 units of local government; and

10 (6) a list of how these resources were expended.

11 (k) AUTHORIZATION OF APPROPRIATIONS.—There
12 are authorized to be appropriated such sums as are nec-
13 essary to carry out this section.

14 **SEC. 5. FLEXIBILITY IN UNSPENT HOMELAND SECURITY**
15 **FUNDS.**

16 (a) REALLOCATION OF FUNDS.—The Director of the
17 Office for Domestic Preparedness, Department of Home-
18 land Security, shall allow any State to request approval
19 to reallocate funds received pursuant to appropriations for
20 the State Homeland Security Grant Program under Public
21 Laws 105–277 (112 Stat. 2681 et seq.), 106–113 (113
22 Stat. 1501A–3 et seq.), 106–553 (114 Stat. 2762A–3 et
23 seq.), 107–77 (115 Stat. 78 et seq.), or the Consolidated
24 Appropriations Resolution of 2003 (Pub. L. 108–7),

1 among the 4 categories of equipment, training, exercises,
2 and planning.

3 (b) APPROVAL OF REALLOCATION REQUESTS.—The
4 Director shall approve reallocation requests under sub-
5 section (a) in accordance with the State plan and any
6 other relevant factors that the Secretary of Homeland Se-
7 curity determines to be necessary.

8 (c) LIMITATION.—A waiver under this section shall
9 not affect the obligation of a State to pass through 80
10 percent of the amount appropriated for equipment to units
11 of local government.

12 **SEC. 6. CERTIFICATION RELATIVE TO THE SCREENING OF**
13 **MUNICIPAL SOLID WASTE TRANSPORTED**
14 **INTO THE UNITED STATES.**

15 *The Secretary of Homeland Security shall deny entry*
16 *into the United States of any commercial motor vehicle (as*
17 *defined in section 31101(1) of title 49, United States Code)*
18 *carrying municipal solid waste unless and until the Sec-*
19 *retary certifies to Congress that the methodologies and tech-*
20 *nologies used by the Bureau of Customs and Border Protec-*
21 *tion of the Department of Homeland Security to screen for*
22 *and detect the presence of chemical, nuclear, biological, and*
23 *radiological weapons in such waste are as effective as the*
24 *methodologies and technologies used by the Bureau to screen*
25 *for such materials in other items of commerce entering into*

- 1 *the United States by commercial motor vehicle transport.*
- 2 *In this section, the term “municipal solid waste” includes*
- 3 *sludge (as defined in section 1004 of the Solid Waste Dis-*
- 4 *posal Act (42 U.S.C. 6903)).*

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A BILL

To provide for homeland security grant coordination and simplification, and for other purposes.

SEPTEMBER 5, 2003

Reported with amendments